IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.15658 of 1996

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Dated:13th September, 2005

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Between:

Sri Rajah Nallparaju Venkata. ..Petitioner

And

The Dy. Commissioner, Endowment

Department, Kakinada, E.G.District

& 8 others. …Respondents

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.15658 of 1996

ORDER:

Questioning the action of respondent No.1 in appointing respondent Nos.3 to 9 as members of the Board of Trustees of Sri Ramalingeswara Swami Temple, Tuni, East Godavari District, without including her as one of the Trustees, the petitioner

filed the present writ petition.

Sri Ramalingeswara Swami Vari Temple, Tuni originally a part of Kottam Estate was registered in the year 1938 under Section 38 of the Madras Hindu Religious Endowments Act, 1926. The affairs of the temple were being looked after by the Zamindars of the Kottam Estate as they are the hereditary trustees ever since its inception. The recitals in the approved property registers prepared in 1938 by the Endowments Department show that from 1875 onwards the management of the temple and its properties have been hereditarily within the family of the Zamindars of Kottam Estate. The petitioner herein is the descendant of the Zamindars of the Kottam Estate. The petitioner's father
Sri Jagapathi Raju Bahadur conveyed all his movables, immovables, tangible and intangible properties by executing a Will in favour of the petitioner and her two sisters. After the death of her father, the petitioner is managing the affairs of the temple as its hereditary trustee. While so, respondent No.1 herein issued the impugned proceedings bearing Rc.No.A1/837/96 Admn, dated
26-7-1996 under Section 15 (2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short the "Act") wherein the petitioner was not included as one of the Trustees while respondent Nos.3 to 9 were appointed as Trustees though the petitioner was one of the hereditary member of the family of the founder of the temple. Section 17 of the Act clearly specifies that one of the members of the family of the founder shall be the Trustee, if qualified. It is the grievance of the petitioner that she being qualified person, as envisaged in the Act, for being appointed as Trustee, is entitled to be appointed as a Trustee of the temple, and the action of respondent No.1 in appointing respondent Nos.3 to 9 as members of the Board of Trustees of
Sri Ramalingeswara Swami Temple, Tuni, East Godavari District, without including her name as one of the Trustees, is void and illegal. Hence, this writ petition.

Learned counsel for the petitioner submits that the petitioner is managing the affairs of the temple after the death of her father as the hereditary Trustee. Learned counsel further submits that the action of respondent No.1 in not including the petitioner's name in the Board of Trustees though she is one of the family member of the founder of the temple is unlawful and contrary to the provisions of Section 17 of the Act, which clearly envisage that one of the Trustees in the Trust Board, shall be from the family of the founder, if qualified.

Respondent No.1-Deputy Commissioner, Endowments Department, Kakinada, filed a counter stating that the temple has been managed by the petitioner herein for there was no Trust Board, and when the Trust Board was constituted by the impugned proceedings, the petitioner filed the present writ petition stating that she is a member of the family of the Founder Trustee, and she is eligible for being appointed as a Trustee, but her name was ignored while constituting the Trust Board. It is submitted that since Hereditary Trusteeship was abolished, the petitioner has to apply for declaration to declare that she is the member of the founder's family, and since no such declaration, has been obtained by the petitioner, she is not entitled to be appointed as a Trustee. The petitioner has got an alternative remedy before the Regional Joint Commissioner against the impugned order, and the present writ

petition is not maintainable. The petitioner's ancestors did not get any declaration either u/s.57 of the Act 1951 or u/s.77 of the Act, 1966 to the effect that they are the hereditary trustees, and unless the petitioner gets declaration from the competent authority to the effect that she is the member of founder family her case cannot be considered.

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments for the respondents.

The case of the petitioner is that she being one of the members of the hereditary family of the founder of
Sri Ramalingeswara Swami Temple, Tuni, East Godavari District, is entitled to be appointed as a Trustee of the said temple, but respondent No.1, without including her name as one of the Trustees, had constituted Trust Board by appointing respondent Nos.3 to 9 as members, which is void and illegal. Whereas, the case of the respondents is that the petitioner's ancestors did not get any declaration either u/s.57 of the Act 1951 or u/s.77 of the Act, 1966 to the effect that they are the hereditary trustees and unless the petitioner gets declaration from the competent authority to the effect that she is the member of founder family her case cannot be considered. Admittedly, the petitioner has not produced any declaration to show that she belongs to the founder's family, which is a pre-requirement for appointment of a hereditary trustee. It is for the petitioner to get declaration that she is the member of the founder's family either under Section 57 of the Act 1951 or under Section 77 of the Act 1966, and unless and until the petitioner obtains such declaration, she cannot seek Trusteeship of the Temple.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following direction.

The petitioner is at liberty to obtain a declaration either under Section 57 of the Act 1951 or under Section 77 of the Act 1966, that she is one of the members of the family of the Founder of the Temple, and upon obtaining such declaration, she is at liberty to make an application before the appropriate authorities concerned, seeking to appoint her as one of the Trustees/Chairman of the Trust Board of the Temple.

The writ petition is accordingly disposed of. No costs.

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(N.V.RAMANA, J)

13th September, 2005

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